

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	2236.05
COMPLAINT INVESTIGATOR:	Joe Bear
DATE OF COMPLAINT:	March 17, 2005
DATE OF REPORT:	April 18, 2005
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	August 4, 2005

COMPLAINT ISSUES:

Whether North Newton School Corporation and Cooperative School Services violated:

511 IAC 7-25-6(b) by failing to obtain informed parental consent prior to conducting a reevaluation of the student (speech and language portion of the reevaluation);

511 IAC 7-25-6(i) by failing to provide the parent with adequate notice of the school's intent to conduct a reevaluation (speech and language portion);

511 IAC 7-25-6(j) by failing to provide the parent with written notice that the reevaluation has been conducted, and failing to include a copy of the reevaluation report with the written notice within 20 instructional days after the reevaluation; and

511 IAC 7-27-7(a) by failing to implement the student's individualized education program (IEP) as written, specifically by failing to implement the student's behavioral intervention plan (BIP).

FINDINGS OF FACT:

1. The Student has been identified as having an Other Health Impairment and has been determined eligible for special education and related services.
2. An Authorization for Release of Information was filled out by the Complainant for evaluations and data connected with the reevaluation on January 21, 2004. A parental consent form was not filled out; however, general information pertaining to the reevaluation was included in the case conference committee (CCC) notes of January 21 and March 16, 2004, both of which were signed by the Complainant. The School acknowledged that it did not obtain parental consent for the speech and language portion of the reevaluation, which was to be completed by April 12, 2004.
3. The School acknowledged that it did not provide adequate notice to the Complainant of its intent to conduct a speech and language evaluation as part of the reevaluation.
4. The Clinical Psychologist's evaluation was completed on March 7, 2004. The School acknowledged that it did not provide written notice to the Complainant that the reevaluation was conducted prior to the CCC meeting of March 16, 2004. The School further acknowledged that it did not provide a copy of the reevaluation report to the Complainant within 20 instructional days after the reevaluation was completed.

5. A proposed IEP was developed on May 17, 2004. Due to the Student's documented behavior problems and an incident on the school bus in November 2004, the CCC developed a behavioral intervention plan (BIP) to be included in the IEP. Although two functional behavioral assessments had been conducted and a behavior contract had existed, the BIP did not take its present, written form until May 17, 2004.
6. The Complainant signed that he disagreed with the proposed IEP. Neither the School nor the Complainant pursued mediation or a due process hearing as a means of resolving the disagreement.
7. The implementation of the proposed IEP of May 17, 2004, has not been documented. The School and the Complainant have not agreed on a new IEP.

CONCLUSIONS:

1. Finding of Fact #2 indicates that the School did not obtain informed parental consent prior to conducting the reevaluation. Therefore, a violation of 511 IAC 7-25-6(b) is found.
2. Finding of Fact #3 indicates that the School did not provide adequate notice to the Complainant of its intent to conduct a speech and language evaluation as part of the Student's reevaluation. Therefore, a violation of 511 IAC 7-25-6(i) is found.
3. Finding of Fact #4 indicates that the School did not provide written notice that the reevaluation had been conducted, and did not include a copy of the reevaluation report with the written notice within 20 instructional days after the reevaluation. Therefore, a violation of 511 IAC 7-25-6(j) is found.
4. Findings of Fact #5, #6, and #7 indicate that the IEP proposed on May 17, 2004, has still not been agreed to, and neither mediation nor a due process hearing has been initiated. The School has not documented the implementation of the proposed IEP. Therefore, a violation of 511 IAC 7-27-7(a) is found.

The Department of Education, Division of Exceptional Learners, requires corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

North Newton School Corporation and Cooperative School Services shall:

1. Provide a written memorandum to CCC coordinators, teachers of record, and related service personnel that addresses the following: procedures regarding informed parental consent and adequate notice prior to a reevaluation, the need to provide written notice that a reevaluation has been conducted, and the need to include a copy of the reevaluation report with the written notice within 20 calendar days after the reevaluation.

Documentation of compliance (consisting of a memorandum and list of people who received it) shall be submitted to the Division by May 30, 2005.

2. Convene the CCC to develop an IEP for the Student by May 25, 2005. Discuss and record a method of tracking the implementation of the IEP. If agreement cannot be reached by May 25, 2005, the School must immediately initiate a due process hearing.

Documentation of compliance (consisting of the CCC notes and the signed IEP or a letter indicating the initiation of a due process hearing) shall be submitted to the Division by May 30, 2005.